



RESOLUTION 24-04

A RESOLUTION OF THE NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION AUTHORIZING PAYMENT OF REMAINING NON-AWARD FUNDS IN THE LA PORTE COUNTY REVOLVING LOAN FUND TO LA PORTE, INDIANA, AND MICHIGAN CITY, INDIANA, AND CESSATION OF THE LA PORTE COUNTY REVOLVING LOAN FUND PROGRAM FOR NEW LOANS

Whereas, the Northwestern Indiana Regional Planning Commission (hereafter referred to as “The Commission”) has operated since 1987, a La Porte County Revolving Loan Fund (hereafter referred to as “The RLF”) under the Economic Development Administration (EDA) of the U.S. Department of Commerce; and

Whereas, on September 16, 2021, the Commission approved Resolution 21-16 requesting release of the RLF from certain requirements of the EDA, which is commonly referred to as defederalization; and

Whereas, on March 30, 2022, the defederalization request was sent to the EDA; and

Whereas, the EDA approved the defederalization of the RLF on October 30, 2023; and

Whereas, an *Agreement to Release the EDA Federal Interest In A Revolving Loan Fund Award* (hereafter referred to as “The Agreement” and attached as Exhibit “A”) was executed by the Executive Director on November 9, 2023; and

Whereas, the defederalization allows the Award funds, defined in the Agreement as the federal share of the RLF capital base, to be used for one or more activities that continue to carry out the economic development purposes of the Public Works and Economic Development Act of 1965 (PWEDA); and

Whereas, the La Porte County Revolving Loan Managing Board (hereinafter referred to as “The Board”) met on February 2, 2024, and has recommended to the Finance and Personnel Committee, the return of remaining Non-Award funds to the cities of La Porte, Indiana, and Michigan City, Indiana, in equal amounts under the proposed terms in draft agreements attached as Exhibit “B” and Exhibit “C”; and

Whereas, the Board has further recommended to the Finance and Personnel Committee that the RLF program cease in terms of approval of new loans by the La Porte County loan committee; and

Whereas, the Finance and Personnel Committee has reviewed the recommendations from the Board and has recommended the same to the Commission; and

Whereas, the Commission supports the payment of remaining Non-Award funds to La Porte, Indiana and Michigan City, Indiana; and

Whereas, the Commission supports the cessation of the La Porte County RLF program for new loans; and


Whereas, the Commission authorizes NIRPC's Attorney to negotiate final terms for the agreements with each city in consultation with the Executive Director, Chief Financial Officer, and Economic Development District Coordinator; and

Whereas, the Commission authorizes the Executive Director to enter into agreements with each city upon the conclusion of negotiations.

Now, Therefore Be It Resolved that the Commission approves

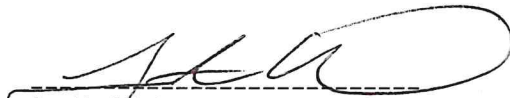
- 1) that no new loans be made from the La Porte County Revolving Loan Fund, and
- 2) the payment of remaining Non-Award funds to La Porte, Indiana, and Michigan City, Indiana in equal amounts as per final agreement terms yet to be negotiated.

Duly adopted by the Northwestern Indiana Regional Planning Commission this 21st day of March 2024.



Thomas Dermody
Chairperson

ATTEST:



Justin Kiel
Secretary

EXHIBIT A to RESOLUTION 2024-04 (5-page Exhibit)

AGREEMENT TO RELEASE THE EDA FEDERAL INTEREST IN A REVOLVING LOAN FUND AWARD

THIS AGREEMENT is between the United States Department of Commerce, Economic Development Administration (EDA) and Northwestern Indiana Regional Planning Commission (Recipient).

WHEREAS, EDA, pursuant to its authority under the Public Works and Economic Development Act of 1965 (PWEDA) (42 U.S.C. § 3121 *et seq.*), awarded to Recipient one or more grants to capitalize a Revolving Loan Fund (RLF) bearing EDA award numbers 06-39-02180 and 06-39-02180.01 (the Award).

WHEREAS, EDA retains a federal interest in the Award and Recipient has submitted a written request that EDA release its federal interest in the Award consistent with the requirements of the Reinvigorating Lending for the Future Act (Pub. L. 116-192), attached hereto as Appendix A (the Request).

WHEREAS, EDA and Recipient agree that the current value of the RLF capital base is \$486,141.61, the federal investment rate is 72.41%, and the federal share of the RLF capital base is \$352,015.14 (the Award Funds).

WHEREAS, EDA has determined that 1) more than seven years have passed since the final EDA disbursement to Recipient of funds under the Award, 2) Recipient has complied with the terms and conditions of the Award, and 3) Recipient proposes to use the Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.

WHEREAS, EDA agrees herein to release its federal interest in the Award and Recipient agrees herein to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.

NOW THEREFORE, EDA and Recipient agree as follows:

1. EDA's Release. EDA agrees to release its federal interest in the Award. EDA's reversionary interest in the Award will cease to exist as of the effective date of this agreement.
 - a. Recipient's use of Award Funds no longer needs to comply with, among other things, the following authorities:
 - i. OMB regulations at 2 CFR part 200, including the Compliance Supplement at Appendix XI, except that the Award Funds must appear in the Schedule of Federal Expenditures (SEFA) covering the fiscal year of release, and audited as required pursuant to 2 CFR part 200, subpart F.
 - ii. EDA regulations at 13 CFR chapter III, including the RLF-specific regulations at part 307, subpart B (including the requirement at 13 CFR § 307.14 to submit Form ED-209 RLF Financial Report to EDA).

- iii. The terms and conditions attached to the Award, including the Department of Commerce's Standard Terms & Conditions, the EDA RLF Standard Terms & Conditions, and any Special or Specific Award Conditions.
 - iv. The EDA-approved RLF plan or any related document governing administration of the Award.
 - b. This release of the EDA federal interest in the Award does not extend to or include a release of any other entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base. More specifically, if Community Development Block Grant funds from the U.S. Department of Housing and Urban Development (HUD) or funds from the U.S. Department of Agriculture (USDA) were used as local share under the Award, this release of the EDA federal interest does not extend to or include a release of any HUD or USDA federal interest in the RLF capital base. If Recipient seeks a release of another entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base, Recipient must negotiate such a release with the other entity and EDA will not participate in that negotiation.
- 2. Recipient's Use of Award Funds. Recipient agrees to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.
 - a. Recipient shall not use Award Funds to construct schools, community centers, municipal buildings, or otherwise use Award Funds to carry out activities outside of the economic development purposes of PWEDA, nor shall Recipient use Award Funds to pay general costs of government.
 - b. Recipient shall not transfer Award Funds to a natural person, for-profit entity, or other entity ineligible for award under sections 3(4) and 209 of PWEDA (42 U.S.C. § 3122(4) and § 3149). For the sake of clarity, Award Funds may be used to contract with for-profit entities for goods and services for one or more activities that continue to carry out the economic development purposes of PWEDA and to operate an RLF that makes loans to for-profit organizations.
 - c. Award Funds must be used in a manner consistent with EDA's non-relocation policy. Specifically, Recipient shall not use Award Funds to induce the relocation of existing jobs within the U.S. that are located outside of a jurisdiction to within that jurisdiction in competition with other U.S. jurisdictions for those same jobs.
 - d. Award Funds must be used in accordance with section 602 of PWEDA (42 U.S.C. § 3212). Specifically, Recipient shall ensure that all laborers and mechanics employed by contractors or subcontractors on projects assisted by Award Funds shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor as provided by section 602 of PWEDA or as it may be amended in the future.
 - e. Recipient shall use Award Funds in accordance with applicable federal, state, and local law, including applicable non-discrimination law. Recipient may not use Award Funds for any purpose that would be prohibited by the Establishment


Clause of the U.S. Constitution if the Award Funds were expended directly by the Federal Government.

- f. Recipient is not required by the terms of this Agreement to seek EDA approval or permission to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA but that differ from the activities described in the Request, attached hereto as Appendix A.
 - g. Recipient shall provide timely and accurate responses to EDA inquiries regarding Recipient's use of the Award Funds. Following the release of EDA's federal interest, EDA remains interested in working with Recipient to promote Recipient's RLF or other activities that continue to carry out the economic development purposes of PWEDA.
3. Enforcement. In the event that EDA determines that Award Funds have been used in a manner inconsistent with this agreement, EDA may require Recipient to return the misspent portion of the Award Funds to the Federal Government, which may include the establishment of a debt with the U.S. Department of the Treasury.
 4. Indemnification. To the extent permitted by law, Recipient agrees to indemnify and hold the Federal Government harmless from and against all liabilities that the Federal Government may incur as a result of releasing EDA's federal interest in the Award.
 5. Governing Law: Severability. This Agreement is governed by applicable federal law, if any, and if there is no applicable federal law by state law. The terms of this Agreement do not limit the rights EDA, its designees, successors, or assigns are entitled to under applicable federal or state law. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable.
 6. Entire Agreement. This Agreement contains the entire understanding of EDA and Recipient with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters.
 7. Authority. Recipient represents that (a) it has the power and authority to execute and perform this Agreement, (b) the execution and performance of this Agreement by Recipient have been duly authorized by all necessary corporate or other actions, (c) Recipient has duly and validly executed this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against Recipient.

[Remainder of this page intentionally left blank.]


IN WITNESS WHEREOF, EDA and Recipient have caused this Agreement to be duly executed by their respective officers as of the date indicated.

**DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT
ADMINISTRATION**

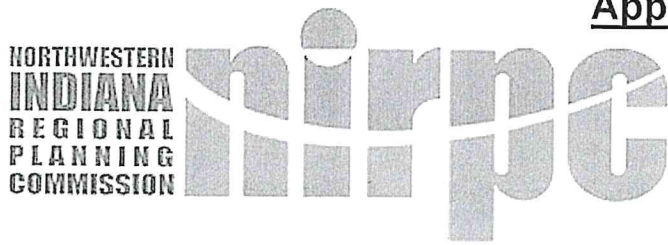
By:  Digitally signed by Susan M. Brehm
Date: 2023.10.30 16:43:25 -05'00'
Susan M. Brehm
Regional Director
Chicago Regional Office

October 30, 2023
Date

**NORTHWESTERN INDIANA
REGIONAL PLANNING
COMMISSION**

By: 
Tyson Warner
Executive Director

11/9/23
Date



Appendix A

6100 Southport Road
Portage, Indiana 46368
(219) 763-6060
www.nirpc.org

March 30, 2022

Ms. Susan Brehm
Regional Director, Chicago Regional Office
U.S. Department of Commerce, EDA
230 S. Dearborn Street, Suite 3280
Chicago, IL 60604

RE: Request to release EDA's federal interest in EDA revolving loan fund award

Dear Ms. Brehm,

The following information is submitted for your consideration.

1. Organization's name and contact information:
Northwestern Indiana Regional Planning Commission (NIRPC)
6100 Southport Road, Portage, IN 46368
Tyson Warner, Executive Director (219) 254-2524
2. Identifying information for the RLF award:
Awards #06-39-02180 12/03/1986
#06-39-02180.01 07/26/1990 approximate award date
Evidence that final disbursement occurred more than seven years ago is not available.
3. Value of the RLF award:
Total capital base is \$870,053.28
(\$217,868.57 in outstanding loans and \$ 257,566.37 in cash)
4. NIRPC will use the RLF award funds to continue to operate the existing RLF to continue to carry out the economic development purposes of PWEDA.
5. I certify that NIRPC has complied with the terms and conditions of the RLF award.

Supplemental materials attached:

1. Resolution 2021-16 from NIRPC's Commission.
2. Final RLF Financial Report (Form EDA-209) for the RLF award for the year ending 12/31/21.
3. 2019 Audit for NIRPC (2020 Audit for NIRPC is still in process).

Thank you for your consideration of this request.

Sincerely,


Tyson Warner AICP
Executive Director

EXHIBIT B to RESOLUTION 2024-04 (13-page Exhibit)

**AGREEMENT TO RETURN REMAINING NON-AWARD FUNDS IN A
REVOLVING LOAN FUND TO THE CITY OF LA PORTE, INDIANA**

This Agreement (the "Agreement") is entered into on _____, 2024, (the "Effective Date"), by and between the City of La Porte ("City") located at 801 Michigan Avenue, La Porte, Indiana, and the Northwestern Indiana Regional Planning Commission ("NIRPC") located at 6100 Southport Road, Portage, Indiana.

1. **PURPOSE AND SCOPE:** The City and NIRPC intend for this Agreement to provide the terms by which payments of remaining Non-Award funds from the La Porte County Revolving Loan Fund ("RLF") will be made by NIRPC to the City over time until the retirement of debt on all existing loans. Non-Award funds are the remaining amounts of the local match provided in 1987 in equal amounts by the City of La Porte and City of Michigan City as a condition of receipt of Federal Award funds from the Economic Development Administration ("EDA") for the establishment of the La Porte County Revolving Loan Fund program ("RLF").
2. **TERMS AND CONDITIONS:**
 - A) NIRPC and the EDA executed on November 9, 2023, an *Agreement to Release the EDA Federal Interest In A Revolving Loan Fund* ("Release Agreement") which is attached to this Agreement as Exhibit "A". The City acknowledges the Release Agreement and its 1b provision.
 - B) The City shall submit a written request to NIRPC by no later than June 1, 2024, requesting the initial payment and biennial payments of remaining Non-Award funds.
 - C) The initial payment from NIRPC to City shall be made by no later than September 1, 2024.
 - D) The basis for calculation of the initial payment is from the RLF's June 30, 2023, Financial Report ("Report") submitted to the EDA which is attached to this Agreement as Exhibit "B".
 - E) Non-Award funds are 27.59% and Federal Award funds are 72.41% of the RLF Cash Available for Lending as shown on line D2 of Report.
 - F) The initial payment to City shall be based on half of 27.59% of the RLF Cash Available for Lending dollar amount (\$279,111.33).
 - G) The basis for calculation of the biennial payments is from future monthly loan payments received from borrowers.
 - H) Non-Award funds are 27.59% and Federal Award funds are 72.41% of the Principal Outstanding as shown on line D1 of Report

- I) Subsequent biennial payments from NIRPC to City shall be made by no later than September 1st in 2026, 2028, 2030, 2032, and 2034 or longer if any of the existing loans are refinanced or granted moratoriums thereby extending their payments beyond the currently anticipated last payment date.
- J) NIRPC shall notify City in writing at address in Agreement and/or via email to the Mayor within thirty (30) days if refinancings or moratoriums extend the Biennial Payment Time Periods.
- K) Each biennial payment to City shall be based on half of 27.59% of the loan principal only payments received by NIRPC during these time periods.

2026 Biennial Payment Time Period : Principal payments received from July 1, 2023, through June 30, 2026.

2028 Biennial Payment Time Period : Principal payments received from July 1, 2026, through June 30, 2028.

2030 Biennial Payment Time Period : Principal payments received from July 1, 2028, through June 30, 2030.

2032 Biennial Payment Time Period : Principal payments received from July 1, 2030, through June 30, 2032.

2034 Biennial Payment Time Period : Principal payments received from July 1, 2032, through June 30, 2034.

- 3. AUTHORIZATION AND EXECUTION:** This agreement shall be signed by the City of La Porte's Board of Public Works & Safety and the Executive Director of the Northwestern Indiana Regional Planning Commission and shall be effective as of the date first written above.

NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION

Tyson Warner, AICP

Executive Director

Date

Attest: Talaya Jones, Chief Financial Officer

CITY OF LA PORTE, INDIANA
BOARD OF PUBLIC WORKS & SAFETY

Thomas P. Dermody, Mayor

Date

Attest: Courtney Parthun, Clerk-Treasurer

DRAFT

EXHIBIT A to AGREEMENT

AGREEMENT TO RELEASE THE EDA FEDERAL INTEREST IN A REVOLVING LOAN FUND AWARD

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- iii. The terms and conditions attached to the Award, including the Department of Commerce's Standard Terms & Conditions, the EDA RLF Standard Terms & Conditions, and any Special or Specific Award Conditions.
 - iv. The EDA-approved RLF plan or any related document governing administration of the Award.
 - b. This release of the EDA federal interest in the Award does not extend to or include a release of any other entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base. More specifically, if Community Development Block Grant funds from the U.S. Department of Housing and Urban Development (HUD) or funds from the U.S. Department of Agriculture (USDA) were used as local share under the Award, this release of the EDA federal interest does not extend to or include a release of any HUD or USDA federal interest in the RLF capital base. If Recipient seeks a release of another entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base, Recipient must negotiate such a release with the other entity and EDA will not participate in that negotiation.
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Clause of the U.S. Constitution if the Award Funds were expended directly by the Federal Government.

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 4. Indemnification. To the extent permitted by law, Recipient agrees to indemnify and hold the Federal Government harmless from and against all liabilities that the Federal Government may incur as a result of releasing EDA's federal interest in the Award.
 5. Governing Law: Severability. This Agreement is governed by applicable federal law, if any, and if there is no applicable federal law by state law. The terms of this Agreement do not limit the rights EDA, its designees, successors, or assigns are entitled to under applicable federal or state law. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable.
 6. Entire Agreement. This Agreement contains the entire understanding of EDA and Recipient with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters.
 7. Authority. Recipient represents that (a) it has the power and authority to execute and perform this Agreement, (b) the execution and performance of this Agreement by Recipient have been duly authorized by all necessary corporate or other actions, (c) Recipient has duly and validly executed this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against Recipient.

[Remainder of this page intentionally left blank.]


IN WITNESS WHEREOF, EDA and Recipient have caused this Agreement to be duly executed by their respective officers as of the date indicated.

**DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT
ADMINISTRATION**

By:  Digitally signed by Susan M. Brehm
Date: 2023.10.30 16:43:25 -05'00'
Susan M. Brehm
Regional Director
Chicago Regional Office

October 30, 2023
Date

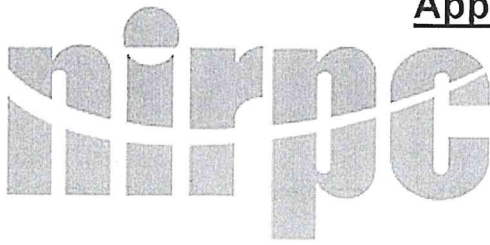
**NORTHWESTERN INDIANA
REGIONAL PLANNING
COMMISSION**

By: 
Tyson Warner
Executive Director

11/9/23
Date

Appendix A

NORTHWESTERN
INDIANA
REGIONAL
PLANNING
COMMISSION



6100 Southport Road
Portage, Indiana 46368
(219) 763-6060
www.nirpc.org

March 30, 2022

Ms. Susan Brehm
Regional Director, Chicago Regional Office
U.S. Department of Commerce, EDA
230 S. Dearborn Street, Suite 3280
Chicago, IL 60604

RE: Request to release EDA's federal interest in EDA revolving loan fund award

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(\$217,868.57 in outstanding loans and \$ 257,566.37 in cash)
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5. I certify that NIRPC has complied with the terms and conditions of the RLF award.

Supplemental materials attached:

1. Resolution 2021-16 from NIRPC's Commission.
2. Final RLF Financial Report (Form EDA-209) for the RLF award for the year ending 12/31/21.
3. 2019 Audit for NIRPC (2020 Audit for NIRPC is still in process).

Thank you for your consideration of this request.

Sincerely,


Tyson Warner AICP
Executive Director

Northwestern Indiana Regional Planning Commission-91805IN-2023.06.30

EXHIBIT B to AGREEMENT

Part I: Grantee Information

1. RLF Name: Northwestern Indiana Regional Planning Commission-91805IN
2. EDA Award Number: 06-39-02180
3. Reporting Period End Date: June 30, 2023
4. Status: Submitted
5. RLF Due Date: July 30, 2023
6. Report Type: Semiannual
7. End of Year Financial Report: no
8. Regional Office: Chicago
9. State: IN

Part II: Portfolio Financial Status

A. RLF Funding Sources

1. EDA Funding: \$700,000.00
2. RLF Local Match: \$266,667.00
3. Total RLF Funding: \$966,667.00

Federal Grant Rate

72.41%

B. Cumulative RLF Income Fund

1. Interest Earned on Loans: \$498,534.06
2. Interest Earned on Deposit Accounts: \$121,538.89
3. Fees Earned on Closed Loans: \$47,112.50
4. RLF Income from Application Fees: \$43,662.50
5. Other RLF Income: \$0.00
6. Total RLF Income: \$710,847.95
7. Portion RLF Income Admin. Expense: \$555,333.72

8. RLF Income Added to Capital Base: \$155,514.23
 9. Explanation of Other Income: n/a

C. Status of RLF Capital

1. Total RLF Funding: \$966,667.00
 2. RLF Income Added to RLF Capital: \$155,514.23
 3. Voluntarily Contributed Capital: \$0.00
 4. Loan Losses: \$636,039.62
 5. Disallowance: \$0.00
 6. RLF Capital Base: \$486,141.61

D. Current Balance Available for New Loans

1. Principal Outstanding on Loans: \$207,030.28
 2. RLF Cash Available for Lending: \$279,111.33
 3. RLF \$ Committed Not Disbursed: \$0.00
 4. Cash Available Net of Commitments: \$279,111.33
 5. Percentage Cash Available for Lending: 57.41%

Part III: Loan Portfolio Summary

A. Portfolio Status

	<u>Number</u>	<u>RLF \$ Loaned</u>	<u>Principal Outstanding</u>	<u>Loan Losses</u>
1. Current Loans:	3	\$262,640.00		\$126,385.50
2. Delinquent Loans:	1	\$15,000.00		\$13,742.44
3. Loans in Default:	1	\$75,000.00		\$66,902.34
4. Total Active Loans:	5	\$352,640.00		\$207,030.28
5. Written Off Loans:	14	\$837,791.00		\$636,039.62
6. Fully Repaid Loans:	48	\$2,895,074.84		
7. Total Loans:	67	\$4,085,505.84	\$207,030.28	\$636,039.62
8. Number of Applications Received:	1			

- 9. Number of Loans Closed During Reporting:
- 10. Aggregate PLLs:
- 11. Count of Aggregate PLLs:

0
no

Part IV: Risk Scoring Measures

A. Capital

1. Capital Base Index:

0.5029	1. Net RLF Income:	78.12%
	2. Administrative Expenses % of Income:	0.00%
	3. RLF Income used for Admin. Expenses:	\$0.00
	4. RLF Income earned during Fiscal Year:	\$3,379.70

B. Assets

1. Default Rate:
2. Default Rate Over Time (Months):
3. Loan Write Off Ratio:
4. Dollars Written Off:

32.32%	1. Allowable Cash Percentage:	33.20%
24	2. Cash Percentage:	57.41%
22.58	3. Cash Percentage over Time (Months):	6
16.40		

E. Strategic Results

Total \$ Leveraged:
Loan Leverage Ratio:
Jobs Created:
Jobs Saved:
Total Jobs:
Cost per Job:

RLF Plan Target	Active Loans	Total Loans
2.00 : 1.00	\$160,798.00	\$21,712,260.00
0.46 : 1.00	25.00	99.00
	12.00	248.00
	37.00	347.00
	\$9,530.81	\$11,773.79

Part V. RLF Management Summary

A. RLF Plan

1. Date of EDA Approved RLF Plan:
2. Date of Annual RLF Plan Certification:

February 11, 2021
February 12, 2021

B. Audit

- 1. Fiscal Year End Date: December 31, 2023
- 2. Date of Most Recent Audit: October 10, 2022
- 3. Single Audit: yes
- 4. Program Specific Audit: no
- 5. Audit Submitted to FAC on Time?: Yes
- 6. If not why not?:
- 7. Does the Audit Contain any Findings?: Yes

C. Management

- 1. Any key staff turnover: Yes
- 2. If yes please explain: New accountant hired.

D. Key Retention Personnel

	Name	Title	Tenure
Executive Director	Tyson Warner	Executive Director	3+ years
Lending Director	Talaya Jones	Chief Financial Officer	3+ years
Finance Director	Talaya Jones	Chief Financial Officer	3+ years
Reporting Official	Talaya Jones	Chief Financial Officer	3+ years

Part VI: Approval Process Information

A. Approval Process Information

- 1. Validation on Authority : yes
- 2. Extra Approval Needed: no
- 3. Certification Statement : yes
- 4. Return for Corrections :
- 5. Submission Date: July 28, 2023
- 6. Submitter: Talaya Jones
- 7. Approval Date:

EXHIBIT C to RESOLUTION 2024-04 (13-page Exhibit)

**AGREEMENT TO RETURN REMAINING NON-AWARD FUNDS IN A
REVOLVING LOAN FUND TO THE CITY OF MICHIGAN CITY, INDIANA**

This Agreement (the "Agreement") is entered into on _____, 2024, (the "Effective Date"), by and between the City of Michigan City ("City") located at 100 E. 4th Street, Michigan City, Indiana, and the Northwestern Indiana Regional Planning Commission ("NIRPC") located at 6100 Southport Road, Portage, Indiana.

1. **PURPOSE AND SCOPE:** The City and NIRPC intend for this Agreement to provide the terms by which payments of remaining Non-Award funds from the La Porte County Revolving Loan Fund ("RLF") will be made by NIRPC to the City over time until the retirement of debt on all existing loans. Non-Award funds are the remaining amounts of the local match provided in 1987 in equal amounts by the City of La Porte and City of Michigan City as a condition of receipt of Federal Award funds from the Economic Development Administration ("EDA") for the establishment of the La Porte County Revolving Loan Fund program ("RLF").
2. **TERMS AND CONDITIONS:**
 - A) The EDA and NIRPC executed respectively on October 30, 2023, and November 9, 2023, an *Agreement to Release the EDA Federal Interest In A Revolving Loan Fund* ("Release Agreement") which is attached to this Agreement as Exhibit "A". The City acknowledges the Release Agreement and its 1b provision.
 - B) The City shall submit a written request to NIRPC by no later than July 1, 2024, requesting the initial payment and biennial payments of remaining Non-Award funds.
 - C) The initial payment from NIRPC to City shall be made by no later than September 1, 2024.
 - D) The basis for calculation of the initial payment is from the RLF's June 30, 2023, Financial Report ("Report") submitted to the EDA which is attached to this Agreement as Exhibit "B".
 - E) Non-Award funds are 27.59% and Federal Award funds are 72.41% of the RLF Cash Available for Lending as shown on line D2 of Report.
 - F) The initial payment to City shall be based on half of 27.59% of the RLF Cash Available for Lending dollar amount (\$279,111.33).
 - G) The basis for calculation of the biennial payments is from future monthly loan payments received from borrowers.
 - H) Non-Award funds are 27.59% and Federal Award funds are 72.41% of the Principal Outstanding as shown on line D1 of Report

- I) Subsequent biennial payments from NIRPC to City shall be made by no later than September 1st in 2026, 2028, 2030, 2032, and 2034 or longer if any of the existing loans are refinanced or granted moratoriums thereby extending their payments beyond the currently anticipated last payment date.
- J) NIRPC shall notify City in writing at address in Agreement and/or via email to the Mayor within thirty (30) days if refinancings or moratoriums extend the Biennial Payment Time Periods.
- K) Each biennial payment to City shall be based on half of 27.59% of the loan principal only payments received by NIRPC during these time periods.

2026 Biennial Payment Time Period : Principal payments received from July 1, 2023, through June 30, 2026.

2028 Biennial Payment Time Period : Principal payments received from July 1, 2026, through June 30, 2028.

2030 Biennial Payment Time Period : Principal payments received from July 1, 2028, through June 30, 2030.

2032 Biennial Payment Time Period : Principal payments received from July 1, 2030, through June 30, 2032.

2034 Biennial Payment Time Period : Principal payments received from July 1, 2032, through June 30, 2034.

3. AUTHORIZATION AND EXECUTION: This agreement shall be signed by the City of Michigan City's Board of Public Works & Safety and the Executive Director of the Northwestern Indiana Regional Planning Commission and shall be effective as of the date first written above.

NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION

Tyson Warner, AICP
Executive Director

Date

Attest: Talaya Jones, Chief Financial Officer

CITY OF MICHIGAN CITY, INDIANA
BOARD OF PUBLIC WORKS & SAFETY

Tim Bietry, President

Date

Attest: Gale A. Neulieb, City Clerk

DRAFT

EXHIBIT A to AGREEMENT

AGREEMENT TO RELEASE THE EDA FEDERAL INTEREST IN A REVOLVING LOAN FUND AWARD

THIS AGREEMENT is between the United States Department of Commerce, Economic Development Administration (EDA) and Northwestern Indiana Regional Planning Commission (Recipient).

WHEREAS, EDA, pursuant to its authority under the Public Works and Economic Development Act of 1965 (PWEDA) (42 U.S.C. § 3121 *et seq.*), awarded to Recipient one or more grants to capitalize a Revolving Loan Fund (RLF) bearing EDA award numbers 06-39-02180 and 06-39-02180.01 (the Award).

WHEREAS, EDA retains a federal interest in the Award and Recipient has submitted a written request that EDA release its federal interest in the Award consistent with the requirements of the Reinvigorating Lending for the Future Act (Pub. L. 116-192), attached hereto as Appendix A (the Request).

WHEREAS, EDA and Recipient agree that the current value of the RLF capital base is \$486,141.61, the federal investment rate is 72.41%, and the federal share of the RLF capital base is \$352,015.14 (the Award Funds).

WHEREAS, EDA has determined that 1) more than seven years have passed since the final EDA disbursement to Recipient of funds under the Award, 2) Recipient has complied with the terms and conditions of the Award, and 3) Recipient proposes to use the Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.

WHEREAS, EDA agrees herein to release its federal interest in the Award and Recipient agrees herein to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.

NOW THEREFORE, EDA and Recipient agree as follows:

1. EDA's Release. EDA agrees to release its federal interest in the Award. EDA's reversionary interest in the Award will cease to exist as of the effective date of this agreement.
 - a. Recipient's use of Award Funds no longer needs to comply with, among other things, the following authorities:
 - i. OMB regulations at 2 CFR part 200, including the Compliance Supplement at Appendix XI, except that the Award Funds must appear in the Schedule of Federal Expenditures (SEFA) covering the fiscal year of release, and audited as required pursuant to 2 CFR part 200, subpart F.
 - ii. EDA regulations at 13 CFR chapter III, including the RLF-specific regulations at part 307, subpart B (including the requirement at 13 CFR § 307.14 to submit Form ED-209 RLF Financial Report to EDA).

- iii. The terms and conditions attached to the Award, including the Department of Commerce's Standard Terms & Conditions, the EDA RLF Standard Terms & Conditions, and any Special or Specific Award Conditions.
 - iv. The EDA-approved RLF plan or any related document governing administration of the Award.
 - b. This release of the EDA federal interest in the Award does not extend to or include a release of any other entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base. More specifically, if Community Development Block Grant funds from the U.S. Department of Housing and Urban Development (HUD) or funds from the U.S. Department of Agriculture (USDA) were used as local share under the Award, this release of the EDA federal interest does not extend to or include a release of any HUD or USDA federal interest in the RLF capital base. If Recipient seeks a release of another entity's interest in the RLF capital base, including another federal agency's interest in the RLF capital base, Recipient must negotiate such a release with the other entity and EDA will not participate in that negotiation.
- 2. Recipient's Use of Award Funds. Recipient agrees to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA.
 - a. Recipient shall not use Award Funds to construct schools, community centers, municipal buildings, or otherwise use Award Funds to carry out activities outside of the economic development purposes of PWEDA, nor shall Recipient use Award Funds to pay general costs of government.
 - b. Recipient shall not transfer Award Funds to a natural person, for-profit entity, or other entity ineligible for award under sections 3(4) and 209 of PWEDA (42 U.S.C. § 3122(4) and § 3149). For the sake of clarity, Award Funds may be used to contract with for-profit entities for goods and services for one or more activities that continue to carry out the economic development purposes of PWEDA and to operate an RLF that makes loans to for-profit organizations.
 - c. Award Funds must be used in a manner consistent with EDA's non-relocation policy. Specifically, Recipient shall not use Award Funds to induce the relocation of existing jobs within the U.S. that are located outside of a jurisdiction to within that jurisdiction in competition with other U.S. jurisdictions for those same jobs.
 - d. Award Funds must be used in accordance with section 602 of PWEDA (42 U.S.C. § 3212). Specifically, Recipient shall ensure that all laborers and mechanics employed by contractors or subcontractors on projects assisted by Award Funds shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor as provided by section 602 of PWEDA or as it may be amended in the future.
 - e. Recipient shall use Award Funds in accordance with applicable federal, state, and local law, including applicable non-discrimination law. Recipient may not use Award Funds for any purpose that would be prohibited by the Establishment


Clause of the U.S. Constitution if the Award Funds were expended directly by the Federal Government.

- f. Recipient is not required by the terms of this Agreement to seek EDA approval or permission to use Award Funds for one or more activities that continue to carry out the economic development purposes of PWEDA but that differ from the activities described in the Request, attached hereto as Appendix A.
 - g. Recipient shall provide timely and accurate responses to EDA inquiries regarding Recipient's use of the Award Funds. Following the release of EDA's federal interest, EDA remains interested in working with Recipient to promote Recipient's RLF or other activities that continue to carry out the economic development purposes of PWEDA.
3. Enforcement. In the event that EDA determines that Award Funds have been used in a manner inconsistent with this agreement, EDA may require Recipient to return the misspent portion of the Award Funds to the Federal Government, which may include the establishment of a debt with the U.S. Department of the Treasury.
 4. Indemnification. To the extent permitted by law, Recipient agrees to indemnify and hold the Federal Government harmless from and against all liabilities that the Federal Government may incur as a result of releasing EDA's federal interest in the Award.
 5. Governing Law: Severability. This Agreement is governed by applicable federal law, if any, and if there is no applicable federal law by state law. The terms of this Agreement do not limit the rights EDA, its designees, successors, or assigns are entitled to under applicable federal or state law. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable.
 6. Entire Agreement. This Agreement contains the entire understanding of EDA and Recipient with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters.
 7. Authority. Recipient represents that (a) it has the power and authority to execute and perform this Agreement, (b) the execution and performance of this Agreement by Recipient have been duly authorized by all necessary corporate or other actions, (c) Recipient has duly and validly executed this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against Recipient.

[Remainder of this page intentionally left blank.]

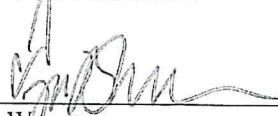
IN WITNESS WHEREOF, EDA and Recipient have caused this Agreement to be duly executed by their respective officers as of the date indicated.

**DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT
ADMINISTRATION**

By:  Digitally signed by Susan M. Brehm
Date: 2023.10.30 16:43:25 -05'00'
Susan M. Brehm
Regional Director
Chicago Regional Office

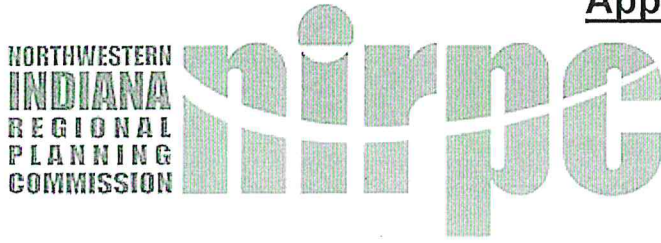
October 30, 2023
Date

**NORTHWESTERN INDIANA
REGIONAL PLANNING
COMMISSION**

By: 
Tyson Warner
Executive Director

11/9/23
Date

Appendix A



6100 Southport Road
Portage, Indiana 46368
(219) 763-6060
www.nirpc.org

March 30, 2022

Ms. Susan Brehm
Regional Director, Chicago Regional Office
U.S. Department of Commerce, EDA
230 S. Dearborn Street, Suite 3280
Chicago, IL 60604

RE: Request to release EDA's federal interest in EDA revolving loan fund award

Dear Ms. Brehm,

The following information is submitted for your consideration.

1. Organization's name and contact information:
Northwestern Indiana Regional Planning Commission (NIRPC)
6100 Southport Road, Portage, IN 46368
Tyson Warner, Executive Director (219) 254-2524
2. Identifying information for the RLF award:
Awards #06-39-02180 12/03/1986
#06-39-02180.01 07/26/1990 approximate award date
Evidence that final disbursement occurred more than seven years ago is not available.
3. Value of the RLF award:
Total capital base is \$870,053.28
(\$217,868.57 in outstanding loans and \$ 257,566.37 in cash)
4. NIRPC will use the RLF award funds to continue to operate the existing RLF to continue to carry out the economic development purposes of PWEDA.
5. I certify that NIRPC has complied with the terms and conditions of the RLF award.

Supplemental materials attached:

1. Resolution 2021-16 from NIRPC's Commission.
2. Final RLF Financial Report (Form EDA-209) for the RLF award for the year ending 12/31/21.
3. 2019 Audit for NIRPC (2020 Audit for NIRPC is still in process).

Thank you for your consideration of this request.

Sincerely,

Tyson Warner AICP
Executive Director

Northwestern Indiana Regional Planning Commission-91805IN-2023.06.30

EXHIBIT B to AGREEMENT

Part I: Grantee Information

1. RLF Name: Northwestern Indiana Regional Planning Commission-91805IN
2. EDA Award Number: 06-39-02180
3. Reporting Period End Date: June 30, 2023
4. Status: Submitted
5. RLF Due Date: July 30, 2023
6. Report Type: Semiannual
7. End of Year Financial Report: no
8. Regional Office: Chicago
9. State: IN

Part II: Portfolio Financial Status

A. RLF Funding Sources

1. EDA Funding: \$700,000.00
2. RLF Local Match: \$266,667.00
3. Total RLF Funding: \$966,667.00

Federal Grant Rate

72.41%

B. Cumulative RLF Income Fund

1. Interest Earned on Loans: \$498,534.06
2. Interest Earned on Deposit Accounts: \$121,538.89
3. Fees Earned on Closed Loans: \$47,112.50
4. RLF Income from Application Fees: \$43,662.50
5. Other RLF Income: \$0.00
6. Total RLF Income: \$710,847.95
7. Portion RLF Income Admin. Expense: \$555,333.72

8. RLF Income Added to Capital Base: \$155,514.23
 9. Explanation of Other Income: n/a

C. Status of RLF Capital

1. Total RLF Funding: \$966,667.00
 2. RLF Income Added to RLF Capital: \$155,514.23
 3. Voluntarily Contributed Capital: \$0.00
 4. Loan Losses: \$636,039.62
 5. Disallowance: \$0.00
 6. RLF Capital Base: \$486,141.61

D. Current Balance Available for New Loans

1. Principal Outstanding on Loans: \$207,030.28
 2. RLF Cash Available for Lending: \$279,111.33
 3. RLF \$ Committed Not Disbursed: \$0.00
 4. Cash Available Net of Commitments: \$279,111.33
 5. Percentage Cash Available for Lending: 57.41%

Part III: Loan Portfolio Summary

A. Portfolio Status

	Number	RLF \$ Loaned	Principal Outstanding	Loan Losses
1. Current Loans:	3	\$262,640.00	\$126,385.50	
2. Delinquent Loans:	1	\$15,000.00	\$13,742.44	
3. Loans in Default:	1	\$75,000.00	\$66,902.34	
4. Total Active Loans:	5	\$352,640.00	\$207,030.28	\$636,039.62
5. Written Off Loans:	14	\$837,791.00		
6. Fully Repaid Loans:	48	\$2,895,074.84		
7. Total Loans:	67	\$4,085,505.84	\$207,030.28	\$636,039.62
8. Number of Applications Received:	1			

9. Number of Loans Closed During Reporting:

0

10. Aggregate PLLs:

no

11. Count of Aggregate PLLs:

Part IV: Risk Scoring Measures

A. Capital

1. Capital Base Index:	0.5029	1. Net RLF Income:	78.12%
		2. Administrative Expenses % of Income:	0.00%
		3. RLF Income used for Admin. Expenses:	\$0.00
		4. RLF Income earned during Fiscal Year:	\$3,379.70

B. Assets

1. Default Rate:	32.32%	1. Allowable Cash Percentage:	33.20%
2. Default Rate Over Time (Months):	24	2. Cash Percentage:	57.41%
3. Loan Write Off Ratio:	22.58	3. Cash Percentage over Time (Months):	6
4. Dollars Written Off:	16.40		

E. Strategic Results

Total \$ Leveraged:	\$160,798.00	Total Loans	\$21,712,260.00
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Jobs Saved:	25.00		248.00
Total Jobs:	12.00		347.00
Cost per Job:	37.00		\$11,773.79
	\$25,000.00		

Part V. RLF Management Summary

A. RLF Plan

1. Date of EDA Approved RLF Plan:	February 11, 2021
2. Date of Annual RLF Plan Certification:	February 12, 2021

B. Audit

- 1. Fiscal Year End Date: December 31, 2023
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- 4. Program Specific Audit: no
- 5. Audit Submitted to FAC on Time?: Yes
- 6. If not why not?:
- 7. Does the Audit Contain any Findings?: Yes

C. Management

- 1. Any key staff turnover: Yes
- 2. If yes please explain: New accountant hired.

D. Key Retention Personnel

	Name	Title	Tenure
Executive Director	Tyson Warner	Executive Director	3+ years
Lending Director	Talaya Jones	Chief Financial Officer	3+ years
Finance Director	Talaya Jones	Chief Financial Officer	3+ years
Reporting Official	Talaya Jones	Chief Financial Officer	3+ years

Part VI: Approval Process Information

A. Approval Process Information

- 1. Validation on Authority : yes
- 2. Extra Approval Needed: no
- 3. Certification Statement : yes
- 4. Return for Corrections :
- 5. Submission Date: July 28, 2023
- 6. Submitter: Talaya Jones
- 7. Approval Date: